REMARKS

Before entry of this Amendment, claims 1-52 were pending in the application. Claims 1-12 and 29-50 have been withdrawn from examination. The number of total claims has been increased by two beyond the number for which payment previously had been made, and the payment for two additional dependent claims is submitted herewith. The number of independent claims has not been increased beyond the number for which payment previously had been made.

The December 2008 Office Action neither rejected claims 22 and 23 nor indicated them to be objectionable due to their dependence on a rejected base claim. Applicants therefore have not had an opportunity to address the status of these claims. Accordingly, applicants hereby respectfully request withdrawal of the finality of the December 2008 Office Action.

Applicants have proposed to amend claim 52 to add the word "to" in order to eliminate a self-evident typographical error.

Applicants have considered the Examiner's Final Action of December 10, 2008, and the references cited therein. The following is a brief summary of the Action. Claims 13-16, 24-26, 51 and 52 were rejected under 35 U.S.C. 102(e) as being anticipated by Lucas (USP 6,996,538). Claims 17-21, 27 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas in view of Treyz (USP 6,587,835). Claims 22 and 23 were neither rejected nor indicated to be objectionable due to their dependence on a rejected base claim.

For the reasons explained below, applicants respectfully traverse the rejection of claims 13-16, 24-26, 51 and 52 under 35 U.S.C. 102(e) as being anticipated by Lucas.

In contending that <u>Lucas</u> anticipates claim 13, lines 16 - 18 of paragraph 5 on page 3 of the December 2008 Final Office Action state that <u>Lucas</u> discloses (emphasis added):

> configuring said customer interface to receive a customer request for a desired product and to transfer said customer request to at least one of said first computer and said at least one RFID STR; (col. 4, lines 19 – 29; discusses receiving supply requests);

However, <u>Lucas</u> col. 4, lines 19 – 29 merely states (emphasis added):

> As **Server 100 receives supply requests**, Server 100 may request price quotes from several Manufacturer, Supplier, or Distributor 120's ("Distributor 120"). Distributor 120 may respond with quantity available, price, estimated delivery time, and other such information. Server 100 may then automatically evaluate each Distributor 120 response to find the best value given various factors associated with each customer request. When an appropriate Distributor 120 response is chosen, Server 100 may automatically arrange payment and shipping of requested supplies for Customer Inventory System 130.

The above description in <u>Lucas</u> says that Server 100 (Fig. 1) receives **supply requests**, and so presumably the December 2008 Final Office Action is contending that Server 100 is a customer interface. However, Server 100 does not appear to be in communication with an RFID STR, and so is the December 2008 Final Office Action then contending that <u>Lucas</u> System 130 is the first computer required by claim 13? If that is the case, then the December 2008 Final Office Action's contentions regarding the RFID in Fig. 5 make no sense, and <u>Lucas</u> becomes deficient in those items. For <u>Lucas</u> column 3, lines 34 – 44 (quoted above) starts out with "Alternatively," making clear that what is depicted in Fig. 5 is an alternative embodiment. Accordingly, <u>Lucas</u> appears to

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fall short of disclosing everything in claim 13 either way and therefore cannot anticipate any of claims 13 – 28 for these reasons alone.

Claim 51 depends on claim 13 and further requires (emphasis added):

> connecting said first computer to a public computer network;
> using said first computer to **monitor said public computer network for predetermined predictive data** that can be used to predict changes in consumer buying habits;
> using said first computer to acquire said predictive data; and
> using said first computer to analyze said predictive data to predict potential out-of-stock conditions based on said acquired predictive data.

Page 5 of the December Final Office Action contends that <u>Lucas</u> column 11, lines 28 – 38 discloses (emphasis added):

> using said first computer to **monitor said public computer network for predetermined predictive data** that can be used to predict changes in consumer buying habits;

However, <u>Lucas</u> column 11, lines 28 – 38 is referring to a **private network** and is not monitoring a **public computer network**. Applicants therefore respectfully submit that claim 51 is patentable under 35 U.S.C. 102(e) over <u>Lucas</u>.

The method for managing products in a supply chain as in claim new claim 52, which depends on claim 22, determines whether more than one alternative product is in stock from more than one respective source of alternative product and conducts an electronic auction to choose the alternative product that ultimately is transferred to the customer interface.

Page 6 of the December Final Office Action contends that <u>Lucas</u> column 2, lines 7 – 19 discloses (emphasis added):

> before transferring said alternative product

information to said customer interface, using said first computer to **conduct an electronic auction between more than one respective source of alternative product** (col. 2, lines 7 – 19 discuss auctioning);

using said first computer transfer to said customer interface said alternative product information of said respective source of alternative product that won said electronic auction (col. 2, lines 7 – 19 discuss auctioning).

However, Lucas column 2, lines 7 – 19 do not discuss conducting an electronic auction between more than one respective source of alternative product. Instead, Lucas column 2, lines 7 – 19 discusses providing a brokered forum through which resellers and customers interact. As set forth at Lucas column 2, lines 15 – 19 (emphasis added):

auctions do not provide equipment availability assurances. The present invention provides a forum through which resellers and customers may interact, where the present invention acts as a broker, **thereby assuring both that purchased equipment is delivered, and that a seller receives proper compensation.**

However, a broker arrangement means that the broker acts as a go-between so that each party at each opposite side of the transaction (buyer and seller) must make a delivery to the broker and take a delivery from the broker to complete the transaction. This differs from an electronic auction, where there is no go-between so that each party at each opposite side of the transaction (buyer and seller) must directly make a delivery to the other party and directly take a delivery from the other party to complete the transaction. Applicants therefore respectfully submit that claim 52 is patentable under 35 U.S.C. 102(e) over Lucas.

Applicants therefore respectfully submit that claims 13-16, 24-26, 51 and 52 are patentable under 35 U.S.C. 102(e) over Lucas.

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For the reasons explained below, applicants respectfully traverse the rejection of claims 17-21, 27 and 28 under 35 U.S.C. 103(a) as being unpatentable over <u>Lucas</u> in view of <u>Treyz</u>.

<u>Treyz</u> fails to correct the deficiencies noted above in <u>Lucas</u>. Applicants therefore respectfully submit that claims 17-21, 27 and 28 are patentable under 35 U.S.C. 103(a) over <u>Lucas</u> in view of <u>Treyz</u>.

Applicants respectfully request reconsideration and reexamination of claims 13-28, 51 and 52, as presented herein, and submit that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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